

REMARKS

These remarks are in response to the Final Office Action dated July 18, 2008. Claims 1-41 are pending in the application.

In the Office Action, the Examiner objected to claims 1, 32 and 41 and suggested that the word “when” should be changed to “if” in certain places.

Claims 1-4, 14, 16, 21, 22, and 24-31 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 4,804,957 (“Selph”).

Claims 5-13, 15, 18, 23, 32-39, and 41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Selph in view of U.S. Pat. No. 6,157,721 (“Shear”).

Claim 17 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Selph in view of U.S. Pat. No. 6,801,865 (“Gilgenbach”).

Claim 40 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Selph in view of Shear and further in view of Gilgenbach.

Claims 19 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Selph in view of Shear and further in view of U.S. Pat. No. 5,978,475 (“Schneier”).

The objections and rejections from the Final Office Action dated July 18, 2008 are discussed below. No new matter has been added. Reconsideration of the application is respectfully requested in light of the following remarks.

I. CLAIM OBJECTIONS

The Examiner objected to claims 1, 32 and 41 and suggested that the word “when” should be changed to “if” in certain places. Solely to expedite allowance of the present application, the applicants have amended claims 1, 32 and 41 as suggested by the Examiner.

In accordance with 37 CFR 1.116, any amendment after a final rejection that will place the application in condition for allowance may be entered. Accordingly, applicants request that the Examiner enter these amendments and withdraw the objections to claims 1, 32 and 41.

II. INTERVIEW SUMMARY

Applicants wish to thank Examiner Louie for his courtesy in participating in a telephone interview with the undersigned attorney on October 9, 2008. In the interview, the undersigned

attorney and the Examiner discussed applicants' embodiments, with a particular emphasis on the various outstanding 35 U.S.C. § 103(a) rejections over Selph in view of Shear.

The undersigned attorney noted that for numerous claim rejections, Examiner Louie copied one passage in Shear that stated: "Protected processing environment 108 discards and does not use any load module 54 that does not bear this seal 106. In this way, protected processing environment 108 securely protects itself against unauthorized load modules 54 such as, for example, the defective load module 54d made by disreputable load module provider 64." (Shear at col. 9, lines 64-66). The undersigned attorney explained to Examiner Louie that this passage in Shear was egregiously different than the subject matter of applicants' claims, and in particular, dependent claims 5-13, 15, 18, and 23.

More specifically, the undersigned attorney explained that the Shear reference teaches that a verifying authority 100 analyzes and tests load modules 54 before they simply enter into a protected environment 108 within an appliance. If a load module 54 passes the test, verifying authority 100 may affix a digital seal of approval to the load module. Protected processing environments 108 can use digital seal of approval 106 to distinguish between authorized and unauthorized load modules 54. (see, e.g., Shear at col. 4, lines 51-56, col. 8, lines 17-19; col. 9, lines 3-10, 43-55). Thus, Shear effectively teaches testing load modules 54 before any bogus load modules can enter into a protected environment 108 within an appliance, such as a set top box, media player, or computer.

In very sharp contrast, the undersigned attorney explained that several of applicants' claims are, in part, directed to the protective actions taken by applicants' energy management device. For example, if tampering is detected, applicants' claimed embodiments can delete a private key from memory (claims 7-8), delete a certificate from memory (claims 10-11), prevent transmission of data through a network interface (claims 12-13), prevent changes to a device setting (claim 15), mark energy management data as unreliable (claim 23), and several other internal protective actions.

In short, the undersigned attorney conveyed that applicants' energy management device can take various internal protective actions if tampering occurs, while Shear merely discards a bogus load module heading towards a protected environment of an appliance. Shear's appliances are clearly not taking any of the internal protective actions recited by applicants' various claims.

By the middle of the phone interview, Examiner Louie indicated that he understood the significant distinctions over Shear, and appeared to agree that several of the claim rejections based on Selph and Shear were off target. Therefore, the telephone arguments appeared to be persuasive to Examiner Louie, at least with respect to some claims.

It should be noted that applicants' clarifications over Shear were not entirely new arguments. Applicants argued over Selph and Shear in the Response filed April 29, 2008 (see pages 12-13 of the reply filed April 29, 2008). Although issuing a Final Office Action after the April 29, 2008 Response, the present telephone call appeared to help Examiner Louie understand applicants' claimed distinctions over Selph and Shear.

While no specific agreement was reached, Examiner Louie and the undersigned attorney decided that applicants would file the present Response After Final to request reconsideration, and that Examiner Louie would issue a subsequent Advisory Action.

III. REQUEST FOR RECONSIDERATION

As noted above, Examiner Louie appeared to have a significantly enhanced, newfound understanding of applicants' claimed subject matter after the October 9, 2008 telephone interview. Further, Examiner Louie appeared to appreciate why the Shear reference was significantly different than several of applicants' claims.

Applicants respectfully request that Examiner Louie reconsider his rejections in the Final Office Action dated July 18, 2008, particularly with respect to dependent claims 5-13, 15, 18 and 23 in view of Selph and Shear. Applicants also request that if subject matter is deemed allowable upon further consideration, that Examiner Louie point out the specifically allowable claims. If rejections stemming from the Shear reference are maintained, applicants respectfully request that Examiner Louie more specifically point out the rationale for the rejections instead of relying on the significantly different passage cited at col. 9, lines 64-66.

Applicants also request reconsideration of claims 32-39 and 41, which were rejected under 35 U.S.C. § 103(a) as being unpatentable over Selph in view of Shear, for at least the reasons set forth above.

Finally, applicants respectfully request that Examiner Louie reconsider his rejection to claim 17 in the Final Office Action based on Selph in view of Gilgenbach.

CONCLUSION

In view of the Examiner Interview conducted on October 9, 2008, applicants respectfully request reconsideration of the rejections in the Final Office Action dated July 18, 2008. In particular, applicants request that the Examiner provide an Advisory Action to specifically indicate which claims have been deemed allowable after further consideration.

Respectfully submitted,



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